IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8132 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UNION OF INDIA

Versus

SARDAR AHMAD NAZIR AHMAD

Appearance:

MRS VASAVDATTA BHATT for Petitioner No. 1-3

MR KK SHAH for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 28/06/2001

ORAL JUDGEMENT

The matter is taken up, with consent of the parties, for final disposal.

2. The present petition is filed by the Union of India through the General Manager, Western Railway,

Church Gate, Mumbai, challenging the order dated 3.1.1991 passed in Recovery Application No.15 of 1984 by the Labour Court, Ahmedabad. On first impression it seems that the said order of 1991 in the Recovery Application is challenged in the present petition filed in the year 2000. Learned advocate for the petitioner invited attention of the Court to the contents of para 2.10 of the petition wherein it is stated that the Railway authorities had filed Original Application No.363 of 1991 before the Central Administrative Tribunal, which came to be finally heard and decided only on 25.3.1998. The order dated 25.3.1998 is produced on record at Annexure 'F' to the petition, which reads as under :

> "Heard Mr.N.S. Shevde, the learned counsel for the applicants. The respondents, namely, Railway Administration has sought a direction to quash and set aside the judgement/ order dated 3.1.91 passed by the Presiding Officer, Labour Court No.11, Ahmedabad as at Annexure 'A1'. It is now well settled by the judgement of the Hon'ble Supreme Court in the case of Krishna Prasad Gupta v. Controller Printing and Stationery (1996) 1 SCC 69 and subsequent judgements that this Tribunal has no jurisdiction to pass such orders as sought for. Mr.Shevde agrees to this and requests that the papers may be returned to the railways so that they may pursue the matter before the appropriate forum.
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> In the light of the submission of Mr.Shevde, OA stands disposed of. In view of the final disposal, interim order stands vacated. The papers may be returned to Mr.Shevde. No costs."

3. This is the order which is passed on 25.3.1998. Thereafter, what was done by the Railway authorities is not mentioned anywhere in the petition. Therefore, the delay caused in filing the petition of almost two years and more is not explained by the authorities. When the learned advocate was put this query she invited attention to averments made in para 2.11, which reads that,

> "The petitioners further submit that original papers of the OA No.363/ 91 was received from the Central Administrative Tribunal through learned advocate Mr.Shevde (Panel Advocate of Railway Administration) on 22.3.2000."

and stated that the said averment may be teated as an explanation for the delay and it may also be treated

that the delay is satisfactorily explained and the same be condoned in the interest of justice. Learned advocate failed to point out any prayer for condonation of delay. The so called explanation in para 2.11 cannot be said to be a sufficient, satisfactory and complete explanation for the delay caused on the part of the authorities and in absence of any prayer for the same, the delay cannot be condoned.

4. In view of the above, the petition is required to be dismissed on the ground of delay and latches on the part of the Railway authorities, more particularly in view of the fact that the respondent workman who was serving in Class IV cadre as a Watchman is waiting for more than a decade though an order in his favour came to be passed in 1991, cannot be made to wait any further. The Railway authorities shall comply with the order of the Labour Court dated 3.1.1991 at the earliest.

Mr.Shah, learned advocate for the respondent workman submitted that the respondent workman is suffering from kidney ailment and one of his kidneys is got removed. In such circumstances making a workman to wait for such a small amount by the Railway authorities by dragging him into litigation, cannot be said to be an act befitting to a welfare state.

5. The petition is dismissed accordingly. Rule is discharged. Interim relief is vacated. No order as to costs.

(Ravi R. Tripathi, J.)
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